

APPENDIX C TO PART 221—SCHEDULE OF CIVIL PENALTIES ¹—Continued

Section	Violation	Willful violation
221.16 Inspection procedure:		
(a) Failure to obtain protection	5,000	7,500
(b) Improper protection	2,500	5,000
221.17 Movement of defective equipment	(¹)	(¹)

¹A penalty may be assessed against an individual only for a willful violation. The Administrator reserves the right to assess a penalty of up to \$20,000 for any violation where circumstances warrant. See 49 CFR part 209, appendix A. Where the conditions for movement of defective equipment set forth in §221.17 of this part are not met, the movement constitutes a violation of §221.13 of this part.

[53 FR 52930, Dec. 29, 1988]

PART 223—SAFETY GLAZING STANDARDS—LOCOMOTIVES, PASSENGER CARS AND CABOOSES

Subpart A—General

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APPENDIX A TO PART 223—CERTIFICATION OF GLAZING MATERIALS

APPENDIX B TO PART 223—SCHEDULE OF CIVIL PENALTIES

AUTHORITY: 45 U.S.C. 431 and 438, as amended; Pub. L. 100–342; and 49 CFR 1.49(m).

Subpart A—General

§223.1 Scope.

This part provides minimum requirements for glazing materials in order to protect railroad employees and railroad passengers from injury as a result of objects striking the windows of locomotives, caboose and passenger cars.

[44 FR 77352, Dec. 31, 1979]

§223.3 Application.

(a) This part applies to railroads that operate rolling equipment on standard gauge track that is a part of the general railroad system of transportation.

(b) This part does not apply to—

(1) Locomotives, cabooses, and passenger cars that operate only on track inside an installation that is not part of the general railroad system of transportation;

(2) Rapid transit operations in an urban area that are not connected with the general railroad system of transportation.

(3) Locomotives, passenger cars and cabooses that are historical or antiquated equipment and are used only for excursion, educational, recreational purposes or private transportation purposes.

(4) Locomotives that are used exclusively in designated service as defined in §223.5(m).

[44 FR 77352, Dec. 31, 1979, as amended at 53 FR 28600, July 28, 1988]

§223.5 Definitions.

As used in this part—

(a) *Locomotive* means a self-propelled unit of equipment designed primarily for moving other equipment. It does not include self-propelled passenger cars.

(b) *Caboose* means a car in a freight train intended to provide transportation for crew members.

(c) *Passenger car* means a unit of rolling equipment intended to provide transportation for members of the general public and includes self-propelled cars designed to carry baggage, mail, express and passengers.

(d) *Yard* is a system of auxiliary tracks used exclusively for the classification of passenger or freight cars according to commodity or destination; assembling of cars for train movement; storage of cars; or repair of equipment.

(e) *Yard locomotive* means a locomotive that is operated only to perform switching functions within a single yard area.

(f) *Yard caboose* means a caboose that is used exclusively in a single yard area.

(g) *Rebuilt locomotive, caboose or passenger car* means a locomotive, caboose

or passenger car that has undergone overhaul which has been identified by the railroad as a capital expense under Interstate Commerce Commission accounting standards.

(h) *Windshield* means the combination of individual units of glazing material of the locomotive, passenger car, or caboose that are positioned in an end facing glazing location.

(i) *End facing glazing location* means any location where a line perpendicular to the plane of the glazing material makes a horizontal angle of 50 degrees or less with the centerline of the locomotive, caboose or passenger car. Any location which, due to curvature of the glazing material, can meet the criteria for either a front facing location or a side facing location shall be considered a front facing location.

(j) *Side facing glazing location* means any location where a line perpendicular to the plane of the glazing material makes an angle of more than 50 degrees with the centerline of the locomotive, caboose or passenger car.

(k) *Certified glazing* means a glazing material that has been certified by the manufacturer as having met the testing requirements set forth in appendix A of this part and that has been installed in such a manner that it will perform its intended function.

(l) *Emergency opening window* means that segment of a side facing glazing location which has been designed to permit rapid and easy removal during a crisis situation.

(m) *Designated service* means exclusive operation of a locomotive under the following conditions;

(1) The locomotive is not used as an independent unit or the controlling unit is a consist of locomotives except when moving for the purpose of servicing or repair within a single yard area;

(2) The locomotive is not occupied by operating or deadhead crews outside a single yard area; and

(3) The locomotive is stenciled "Designated Service—DO NOT OCCUPY".

(n) *Locomotive cab* means that portion of the superstructure designed to be occupied by the crew while operating the locomotive.

[44 FR 77352, Dec. 31, 1979; 45 FR 49271, July 24, 1980]

§ 223.7 Responsibility.

Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) who violates any requirement of this part or causes the violation of any such requirement is subject to a civil penalty of at least \$250 and not more than \$10,000 per violation, except that: Penalties may be assessed against individuals only for willful violations, and, where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty not to exceed \$20,000 per violation may be assessed. Each day a violation continues shall constitute a separate offense. See appendix B to this part for a statement of agency civil penalty policy.

[53 FR 28601, July 28, 1988, as amended at 53 FR 52930, Dec. 29, 1988]

Subpart B—Specific Requirements

§ 223.9 Requirements for new or rebuilt equipment.

(a) Locomotives, including yard locomotives, built or rebuilt after June 30, 1980, must be equipped with certified glazing in all locomotive cab windows.

(b) Caboosees, including yard caboosees, built or rebuilt after June 30, 1980, must be equipped with certified glazing in all windows.

(c) Passenger cars, including self-propelled passenger cars, built or rebuilt after June 30, 1980, must be equipped with certified glazing in all windows and at least four emergency opening windows.

[44 FR 77352, Dec. 31, 1979, as amended at 45 FR 49271, July 24, 1980]

§ 223.11 Requirements for existing locomotives.

(a) Locomotives, other than yard locomotives, built or rebuilt prior to July 1, 1980, which are equipped in the forward and rearward end facing glazing locations of the locomotive cab windshield with a glazing material that meets the criteria for either portion of the impact testing required for a Type I test under the provisions of appendix A of this part, will not require the installation of certified glazing in the